

CHAPTER 124

Assembly Concurrent Resolution No. 106—Approving a new charter for the City of Eureka, a municipal corporation in the County of Humboldt, State of California, ratified by the qualified electors of said city at a special election held therein on the fifth day of March, 1959.

[Filed with Secretary of State, April 10, 1959.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of a new charter for the City of Eureka, a municipal corporation of the County of Humboldt, State of California, as hereinafter set forth in the ordinance proposing the new charter and the certificate of the members of the city council of said city, as follows:

ORDINANCE NO. 2787

AN ORDINANCE PROPOSING A NEW CHARTER OF
THE CITY OF EUREKA.

Be it ordained by the Council of the City of Eureka, as follows:

Title

SECTION 1: The Council of the City of Eureka hereby proposes to the qualified electors of the City of Eureka, State of California, that the City Charter of said City be so changed as to read as follows:

“PROPOSED NEW CHARTER OF THE CITY
OF EUREKA”

ARTICLE I

Boundaries: Rights and Liabilities; Form of Government

Continuation
and general
powers

Section 100. Continuation and General Powers. The municipal corporation now existing, known as the City of Eureka, shall remain and continue a body politic and corporate, under the name and style of the City of Eureka, and by that name shall have perpetual succession; and may have and use a common seal, alterable at pleasure; and may purchase, receive, hold, and enjoy real and personal property within or without its boundaries, and sell, convey, let, mortgage and dispose of the same for the common benefit, and may determine and declare what are public uses, and when the necessity exists of condemning lands therefor, and what are the lands it is necessary to condemn; and may receive bequests, gifts and donations of all kinds of property, wherever situate, in fee simple or in trust, for charitable or other purposes, and do all acts necessary to carry out the purposes of such bequests, gifts, and donations, with the power to manage, sell,

lease, or otherwise dispose of the same in accordance with the terms of the gift, bequest, or trust.

Section 101. Succeeds Former City. The public buildings, lands, and property, all rights of property and rights of action, all money revenues, and income belonging or appertaining to the City of Eureka, are hereby declared to be vested in said City of Eureka. Succeeds former city

Section 102. Powers and Duties Preserved. The said City of Eureka shall continue to have, hold, use, and enjoy all public buildings belonging to the City of Eureka, and lands, wharves, waters, property, real and personal, rights of property, rights of action, suits, actions, moneys, revenues, income, books, documents, records, archives, claims, demands, and things in possession and action, of every nature and description and shall be subjected to all the obligations, debts, liabilities, dues, and duties of the existing municipality. Powers and duties

Section 103. Suits, How Brought. Suits, actions and proceedings may be brought in the name of the City of Eureka, for the recovery of any property, money, or thing belonging thereto, in law or equity, rights of, or contracts with, said City of Eureka, whether made, or existing, or accruing before or after the adoption of this charter; and all existing suits, actions, and proceedings in the courts or elsewhere, to which said city is a party, shall continue to be carried on by or against said City of Eureka. Suits

Section 104. Boundaries. The boundaries of the City of Eureka now existing shall continue until changed in the manner authorized by law. Boundaries

Section 105. Wards. The City of Eureka is hereby divided into five wards, numbered consecutively from one to five, inclusive, the respective boundaries of which shall be as established on the effective date of this section; provided, that the Council may by ordinance change such boundaries when necessary and expedient to provide more nearly equal representation among the five wards. Wards

Section 106. Form of Government. The government provided by this Charter shall be known as the "council-manager" form of government. Government form

ARTICLE II

Elections

Section 200. Elections. Elections to be held in said City for the purpose of electing officers of said city and for all other purposes are of two kinds: Elections

First—General municipal elections.

Second—Special municipal elections.

Section 201. Date of Election. Commencing with the year 1959, general municipal elections shall be held every two years on the second Monday in June. At the general municipal election in 1959 there shall be elected a Mayor and five members Same Date

of the City Council and the required number of members of the Board of Education. After the canvass of the votes and before the successful candidates for City Council take office, they shall by lot determine that two members of the Council are to serve a two year term, and three members a four year term. Thereafter all terms shall be for four years.

Special
elections

Section 202. Time of Special Elections. Special Municipal elections for all purposes designated in this charter shall be held on the days as fixed by the Council therefor.

Procedure

Section 203. Procedure for Holding Elections. Nominations for election and all elections shall be held in accordance with the provisions of the Election Code of the State of California as it then exists, as applied to the holding of elections in general law cities.

Initiative,
referendum
and recall

Section 204. Initiative, Referendum and Recall. The people continue to reserve to themselves the powers of initiative, referendum and recall of the elected officials, and the Council may on its own motion refer matters to referendum vote, all in the manner prescribed by general law.

Officers

Section 205. Officers to Hold Office. The officers elected at a general municipal election shall, after they have qualified as provided in this charter, enter upon the discharge of the duties of the officers to which they have been elected, on the second Monday in July next succeeding their election and, except for the provisions of Section 201, relating to the election in 1959, shall hold their offices for the term of four years, and until their successors are elected and qualified.

ARTICLE III

City Council

City Council

Section 300. Council. The legislative power of the City of Eureka shall be vested in a Council of five members, whose term shall be four years (except for the initial election of two members as provided in Section 201) and said Council shall have the power to make and enforce any and all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter as the same now is or as it may be hereafter amended; and to do and perform all acts and things appropriate to a municipal corporation, or which may be for the general welfare and good of its inhabitants, which are not specifically forbidden by the Constitution of the State of California, or which now or hereafter it would be lawful to specifically enumerate in this charter; and no enumeration or specific statement herein of any particular power shall be held to be exclusive of a limitation of the foregoing general grant of power.

Councilmen

Section 301. Councilmen, Qualifications of. The qualified electors of the City voting as a whole shall elect one member of the Council for each of the five wards of the city, and no person shall be eligible to the office of councilman who has not

resided in said city for one year, and in the ward for which he is elected at least six months next preceding his election, and if he fails to continue to be a resident of such ward, his office shall, by reason thereof, become vacant; provided, that in case a redistricting or redivision of the city into wards be made, whereby the lines or boundaries of any wards are changed, the last provision in regard to residence shall not apply to any person whose residence has been changed thereby from the ward for which he was elected and in which he resided.

Section 302. Council, Vacancies in. Any vacancy occurring in the office of councilman shall be filled within sixty days by appointment by the Mayor with the approval of the majority of the Councilmen. The person so appointed by them shall possess the qualifications hereinbefore prescribed for members of the Council, and he shall hold office for the remainder of the term. Vacancies
in Council

Section 303. Council Meetings. The Council shall meet in the City Hall of the city on the second Monday of July succeeding their election, and at such other times as may be designated by ordinance. If at any time a regular meeting falls on a holiday, such regular meeting shall be held on the following day. Special meetings may be called by the Mayor or three members of the Council. Three members of the Council shall constitute a quorum, and the affirmative vote of three members shall be necessary for the passage of an ordinance or the final transaction of any business, but a less number than three may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as the Council may by ordinance prescribe. Meetings of
Council

Section 304. President of Council. The Council shall be the judge of the election, qualification, and return of its own members. It shall elect one of its members, who shall be styled the President of the Council, and who shall preside at all meetings of the Council during the absence of the Mayor, and shall, in case of sickness or inability of the Mayor, or his absence from the city, act as the Mayor of the city. The Council shall establish rules for its proceedings. It shall have power to punish its members for disorderly conduct, committed in its presence, and may expell any member for malfeasance in office by an affirmative vote of four of its members. It shall have the power to compel the attendance of witnesses, and the production of all papers relating to any business before that body, and may punish disobedience of its subpoena, or contemptuous or disorderly conduct committed in its presence, by fine not exceeding fifty dollars, or imprisonment not exceeding ten days, or both such fine and imprisonment. President
of Council

Section 305. Oaths Officers May Administer. The President of the Council, the Chairman of each committee, and each and every elective officer shall have the power to administer oaths and affirmations relative to any business brought before the Council, or under consideration by its committees or their respective departments. Oaths

Meeting place	Section 306. Meetings, City Hall. The meetings of the Council shall be held at the City Hall of the city they shall be public, and a journal of its proceedings shall be kept by the City Clerk under its direction, and the ayes and noes shall be taken and entered in the journal in the final action upon the granting of franchises, making of contracts, the passage of any ordinance, ordering work to be done or supplies furnished, the ordering of assessments for street improvements, or building of sewers, and in all other cases upon the call of any member.
Ordinances	Section 307. Ordinances, Enacting Clause. The enacting clause of all ordinances shall be in these words: "Be it ordained by the Council of the City of Eureka, as follows."
Same. Amendments	Section 308. Ordinance, How Amended. No ordinance shall be amended by reference only to its title, but when any ordinance is amended, the section or sections thereof shall be re-enacted at length as amended.
Same. One subject	Section 309. Ordinance, One Subject. Every ordinance shall embrace but one subject, which shall be clearly indicated in the title. In all cases where the subject is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.
Same Adoption	Section 310. Ordinance, How Adopted. No proposed ordinance shall be adopted except by vote taken by ayes and noes, and the names of the members voting for and against the same shall be entered in the minutes.
Motion to reconsider	Section 311. Motion, Reconsider How. When any bill is put upon its final passage and fails to pass, if a motion is made to reconsider, the vote upon such motion shall not be taken until the next regular meeting of the Council. No bill for the grant of any franchise shall be put on its final passage within thirty days after its introduction.
Ordinance passage	Section 312. Passage of Ordinance. No ordinance shall be passed except by bill. Every bill after it has passed the Council shall be signed by the President thereof, and every bill which shall have passed the Council, and have been thus authenticated, shall be presented to the Mayor for his approval. The Mayor shall return such bill to the Council within ten days (Sundays excepted) after receiving it. If he approves it, he must sign it, and the same shall then become an ordinance; but if he shall disapprove it, he shall return it, with his objections in writing, to the Council. If the bill is not returned with such approval or disapproval within the time specified, it shall take effect as if he had approved the same.
Same Mayor's veto	Section 313. Ordinance, Mayor Veto. When a bill is returned without the approval of the Mayor, the Council must cause the objections of the Mayor to be entered upon its journals and proceed to reconsider and vote on the same. If, after such consideration, the bill is again passed by an affirmative vote of not less than four members, it shall take effect as if the Mayor had approved the same. If the bill shall fail, on being so considered, to receive four affirmative votes it shall then

be finally lost. The vote shall be taken by ayes and noes, and the result shall be entered in the journal of the Council.

Section 314. Ordinance, How Published. All ordinances must be published in the manner prescribed by the Council. ^{Publication of ordinances}

Section 315. Ordinance, When Takes Effect. No ordinance passed by the Council shall take effect until thirty days after its passage and approval, unless otherwise provided in the enactment. ^{Effective date}

Section 316. Ordinances, Book Form. The Council shall, during the first year after its organization under this Charter, cause all ordinances then in force to be classified under appropriate heads, and shall provide for the publication of the same in book form. Every officer of the city shall be entitled to one copy of such ordinance; without charge, and every citizen applying for a copy shall be entitled to the same at the cost of publication. The Council shall, every three years after the publication as herein provided, cause all the ordinances at that time in force to be compiled, and shall publish the same subject to the terms and conditions herein expressed. All such publications shall contain the charter with any amendments made thereto. ^{Ordinance book}

Section 317. Council Clerk. The Council may appoint a clerk and assign to him duties not inconsistent with those imposed on other officers or departments under this Charter. ^{Council Clerk}

ARTICLE IV

The Mayor

Section 400. Mayor. The Mayor shall be at least 26 years of age, and shall have been a citizen of the State and a resident and qualified elector of the City for the five years next preceding the day of his election. ^{Mayor's qualifications}

Section 401. Mayor, Duties. The Mayor shall preside at meetings of the Council; shall decide by his vote all tie votes; shall approve or disapprove all ordinances as herein provided; shall make the appointments authorized by this Charter with approval of the Council; shall be recognized as the head of the city government for all ceremonial purposes, and by the Governor for the purpose of military law; but shall have no regular administrative duties. ^{Duties}

Section 402. Mayor, Special Meetings. The Mayor may call special meetings of the Council. He shall be duly notified by the City Clerk of all special meetings of the Council when called by its members, and the time and place of all regular or special meetings of the standing or special committees thereof, and shall have the right and privilege of being present at all such meetings. ^{Special meetings}

Section 403. Mayor's Office, Vacancy in. When a vacancy occurs in the office of Mayor, it shall be filled for the unexpired term by the Council, assembled for that purpose. The person selected shall possess the qualifications hereinbefore ^{Vacancy}

prescribed for Mayor, and a member of the Council during the term for which he shall have been elected or appointed shall be ineligible to fill such vacancy.

Other offices

Section 404. Mayor, other Offices Prohibited. The Mayor shall not, during the term for which he shall have been elected or appointed, hold any other salaried public civil office, nor shall he receive from the city for any cause or reason any other greater compensation than the salary allowed him as Mayor.

Mayor's clerk

Section 405. Mayor's Clerk. The Mayor may appoint a clerk and assign to him the duties consistent with his office.

Salaries

Section 406. Salaries of Mayor and Council. The monthly salary of the Mayor shall continue to be \$175.00, and that of each Councilman shall continue to be \$100.00. Such salaries may not be increased except by amendment of this Section, and no such increase shall be effective during the term for which the Mayor or Councilmen shall then have been elected.

Same:

Section 407. Salaries of Other Officers and Employees. The Council shall by ordinance determine the salaries of all other officers and employees of the City.

ARTICLE V.

Administration

City Manager

Section 500. City Manager. There shall be a City Manager appointed by the Council, who shall be the administrative head of the city government. He shall serve at the pleasure of the City Council. He shall be chosen solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of appointment he need not be a resident of the City or State, but during his tenure of office he shall reside within the City of Eureka.

Councilmen ineligible

Section 501. Councilmen Ineligible. No member of the City Council shall, during the time for which he was elected or appointed, or for one year thereafter, be eligible to hold the position of City Manager or City Manager pro tem.

Section 502. First Manager Non-Resident. No person living within the City of Eureka at the time of adoption of this Article will be eligible to hold the position of City Manager for one year thereafter.

Duties

Section 503. Duties of the City Manager. Subject to policy prescribed by the Council, the City Manager shall have the power and it shall be his duty:

(a) to supervise the administrative affairs of the city except as otherwise specifically provided in this Charter.

(b) to make such recommendations to the Council concerning the affairs of the city as he may deem desirable, including the proposal of ordinances and resolutions he finds necessary for effective management or in the public interest.

(c) to keep the Council advised of the financial condition and future needs of the city.

(d) to see that the ordinances of the city and the applicable laws of the State are enforced.

(e) to appoint, discipline and remove all department heads of the city under his jurisdiction; provided that the appointment and or dismissal of department heads shall be subject to approval of the Council.

(f) to act as purchasing agent for the city and all offices, boards and commissions.

(g) to investigate the operations of departments and other agencies of the city, and of all contracts to which the city is a party, and to assure proper performance.

(h) to investigate complaints concerning utility operations and to see that all permits, privileges and franchises granted by the city are faithfully performed.

(i) when directed by the City Council, to represent the City in its inter-governmental relations, and to negotiate contracts for joint governmental actions subject to Council approval.

(j) if so authorized by ordinance, to perform the duties imposed by law on a City Clerk, Auditor, Assessor, Tax Collector or Treasurer and to deputize others to act for him in such matters to the extent permitted by law.

(k) to exercise general supervision over all public property under control of the city.

(l) to attend all meetings of the City Council unless excused, and such meetings of the boards and commissions as he chooses, or which he is directed to attend by the Council, and participate in discussions at such meetings.

(m) to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council.

(n) to prescribe such general rules and regulations as he may deem necessary or expedient in the general conduct of the administrative departments under his jurisdiction.

(o) to devote full-time to the duties of his office and to the interests of the city.

Section 504. Department Heads Responsible to City Manager. The heads of the administrative departments under the City Manager shall be directly responsible to him for the efficient administration of their respective departments. The City Manager may designate acting department heads when necessary to assure the continuity of the City's business. He shall have the power, with the approval of the Council, to employ expert consultants to perform work or give advice connected with the departments of the city when he finds such work or advice necessary.

Section 505. Emergency Powers. In the case of general conflagration, rioting, floods or other emergency menacing life or property, the City Manager shall at the direction of the

Department
heads

Emergency
powers

Mayor, marshal all of the forces of the different departments of the city for the maintenance of the general security.

Interference
with City
Manager

Section 506. Interference with City Manager. No member of the Council shall by suggestion or otherwise attempt to influence or coerce the City Manager for personal gain. Nor shall he discuss directly or indirectly or attempt to exact any promise from any candidate for City Manager concerning appointments to city offices or employment. Except for the purpose of inquiry, the Council member shall deal with the administrative service for which the City Manager is responsible solely through the City Manager, and not through his subordinates. A violation of the provisions of this Section by any member of the Council shall constitute a misdemeanor for which the offending member may be charged in any court of competent jurisdiction, and if found guilty the sentence imposed shall include removal from office.

City Manager
pro tem

Section 507. City Manager Pro Tem. The City Council shall appoint one of the officers of the city to serve as Manager pro tem during any absence or disability of the City Manager.

Administra-
tive
organization

Section 508. Administrative Organization Authorized. The Council shall by ordinance provide the form of organization through which the functions of the city are to be administered. Any combination of duly authorized duties, powers and functions which in the judgment of the Council will provide the most efficient and economical service possible consistent with the public interest and in keeping with accepted principles of municipal administration may be authorized by such ordinance. All departments or other administrative sub-divisions so created shall be administered by the City Manager or by a department head, unless otherwise authorized by this Charter.

The functions and services which shall be included in the administrative organization herein authorized may include but are not necessarily limited to the following:

- (a) The planning and regulation of land use.
- (b) The regulation of building and housing standards and regulations governing occupancy.
- (c) Cultural and recreational programs.
- (d) The protection and improvement of the public health.
- (e) The protection of persons and property and the preservation of the peace.
- (f) The prevention and extinguishing of fires.
- (g) The development, maintenance and operation of parks and recreation areas.
- (h) The acquisition, construction and maintenance of public works.
- (i) The acquisition, construction, maintenance and operation of public utilities and enterprises, including but not limited to power and light, fuel and heat, water, harbors, airports, vehicular parking and transportation.
- (j) All necessary administrative and fiscal services.
- (k) Any other function or service specifically authorized by Charter or authorized or permitted by State Law.

Section 509. City Attorney. There is hereby created the office of City Attorney, who shall be the chief legal advisor and prosecutor of the city. He shall be appointed by and serve at the pleasure of the Council and shall have been at the time of his appointment admitted to practice and engage in the practice of law in the State of California. He must be a citizen of the United States, need not when appointed be a resident of the City or the State, but shall become a resident of the city within 90 days after his appointment and remain a resident during his tenure. Failure to establish and maintain such residence shall constitute forfeiture of the office. The City Attorney shall advise all officers and agencies of the city on legal matters referred to him, shall draft such ordinances, resolutions, contracts and other legal documents as directed by the City Council or requested by the City Manager, shall prosecute violations of city ordinances and shall act as counsel in behalf of the city or any of its officers or agencies in litigation involving any of them in their official capacity. He shall administer the office of City Attorney subject to policies prescribed by the Council. The Council may empower the City Attorney, at his request, to employ special legal counsel, appraisers, engineers and other technical and expert services necessary for the handling of any pending or proposed litigation, proceeding or other legal matter. The City Attorney shall approve, as to form, all official and other bonds given to or for the benefit of said City, and no contract shall become enforceable as against said City without the endorsement thereon of such approval.

Section 510. Boards and Commissions. The Council may appoint advisory or appellate boards and commissions, prescribe their duties and fix their compensations, if any. The members thereof shall be appointed by the Mayor, with the approval of the Council.

Section 511. Continuation of Departments and Offices. The departments and offices heretofore created by the Charter, by ordinance or by administrative order are continued until modified by ordinances adopted pursuant to this Article.

Section 512. City Clerk. The Council shall appoint or provide for the appointment of a City Clerk and he shall serve at the pleasure of the Council, said City Clerk will perform all duties as prescribed in this Charter or by Ordinance.

ARTICLE VI

Fiscal Administration

Section 600. Taxation. The Council of the City of Eureka shall annually fix the rate of taxation to be levied, and levy the taxes upon all property, both real and personal, in the city, necessary to raise sufficient revenue to carry on the various departments of the Municipal Government for the current fiscal year; provided, that the rate of taxation so levied shall

not exceed in any year One and 50/100 Dollar for each One Hundred Dollars upon the assessed value thereof, except for the payments of principal and interest of the bonded debt of the city, if any; and provided further, that in addition to said One and 50/100 Dollar rate; the Council may levy a tax of not more than Ten Cents for each One Hundred Dollars upon the assessed value thereof, to be used for recreational purposes only.

Funds

Section 601. Funds to be Established. The Council shall, before fixing the rate of annual city tax, establish by ordinance separate funds representing the several funded obligations of the city, if any, and of the several departments requiring municipal expenditures, including a General Fund, and the percentage of said levy shall be named for each fund, and the whole amount of taxes and revenue of the city apportioned accordingly; and no transfers shall be made except of balances in excess, or from the General Fund to meet deficiencies, or to provide for the redemption of city bonds, if any.

Regulation
of tax levy

Section 602. Council to Regulate Tax Levy by Ordinance. The Council shall regulate by ordinance the date of making the annual tax levy; the time, manner, and place of payment of all taxes; when they shall become delinquent; the time when they shall sit as a Board of Equalization; the date of all sales of property for delinquent taxes; and the time, form, and manner of making and giving all notices, if any, relative to any of such subjects.

Fiscal year

Section 603. Fiscal Year. The fiscal year of the city shall commence on the first day of July of each year.

Budget
preparation

Section 604. Budget Preparation. At least 45 days prior to the beginning of each fiscal year, the City Manager shall submit to the Council a budget of proposed expenditures and estimated revenues, accompanied by an explanatory budget message. For such purpose, the City Manager, on such schedule and under such terms as he may prescribe, shall obtain from the head of each department or other agency of the city their estimates of revenue and expenditure in such detail and with such supporting plans and data as he may require. The Manager may revise such estimates in any manner he deems advisable. The explanatory budget message of the City Manager to the Council shall explain the budget, shall outline the proposed financial policies of the city for the ensuing fiscal year, shall propose priorities for capital expenditures, and shall describe the important features of the budget plan. It shall state the reasons for salient changes from the previous year in cost and revenue items, and shall explain any major changes in financial policy. The budget shall be submitted in such form as to enable the Council to compare the prior and current years' revenue and expenditures to which such proposed revenues and expenditures relate. Estimates of revenue shall include surpluses to be carried over from the current year, plus miscellaneous revenues from all sources other than the tax on prop-

erty, the balance to be raised by the general property tax, and an estimate of the tax rate required for the purpose.

Section 605. Hearing and Approval. After submission of the budget by the City Manager, the Council shall review it in such detail as it deems necessary, and after a public hearing held not less than 10 days after public notice thereof, may revise the budget in any manner it finds necessary. Not later than the last day of the fiscal year the Council shall adopt a budget for the ensuing fiscal year, failing which the last fiscal year allotments shall be effective until the budget is adopted. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

Section 606. Budget Transfers. At any meeting after the adoption of the budget, the Council may amend or supplement the budget by motion so as to authorize the transfer of unused balances appropriated for one department to another department, or to appropriate available funds not included in the budget; and may authorize the City Manager to transfer funds between purposes within departments.

Section 607. Assessment. The Council shall provide by ordinance for the assessment of property for the purpose of taxation, either under the direction of the City Manager or by agreement with the County of Humboldt in the manner provided by law.

Section 608. Tax Collection. The Council shall provide by ordinance for the collection of all taxes and other revenues due the City, either under the direction of the City Manager or City Clerk or by agreement with the County of Humboldt, the State of California, or any other agency regularly engaged in the collection of a given tax or other revenue.

Section 609. General Revenues. The Council may, by ordinance, provide for any tax, license or permit fee, service charge or other kind of revenue authorized by this charter or by the Constitution or general laws of the State.

Section 610. Purchasing. The City Manager shall purchase or contract for the equipment, materials, supplies and services required by the city, for which expenditures have been authorized in the budget or by other action of the Council. The Council shall establish by ordinance the conditions under which purchasing shall be only after competitive bidding, shall specify those amounts and conditions under which Council approval is required for specific items of purchase, and shall prescribe conditions under which all bids may be rejected and new bids invited. In the case of materials, supplies and equipment a preference of not to exceed five percent may be allowed to firms or individuals who regularly maintain a place of business and transact business in, or maintain an inventory of merchandise for sale in the city.

Section 611. Public Works. Any city improvement estimated to cost more than \$3,000, shall be performed under contract with sealed bid and accompanying performance bond,

except where such improvement is authorized by the Council to be made directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$3,000. shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided that all bids may be rejected for cause, and new bids may be sought in accordance with the original procedure. Alterations in contracts affecting the scope of work, time requirements, cost or any other substantive provisions affecting cost or the city's interests, shall be approved by the Council after considering the recommendations of the City Manager.

Contracts

Section 612. **Contracts. Limits.** No contract for service or supplies shall be made by the city for a longer term than one year; provided that contracts with other governmental agencies, or for utility services the rates for which are regulated by the state or national government, or for public works improvements for which funds have been provided, may be for a longer term in the discretion of the City Council.

Accounting system

Section 613. **Accounting System.** The City Manager shall direct the establishment and supervise the maintenance of a uniform system of accounting applicable for all departments and other agencies of the city, conforming to modern accepted practices of municipal accounting, which shall be adequate to account for all monies on hand and for all income and expenditures in such detail as will provide complete and informative data concerning the financial affairs of the city and in such manner as will be readily susceptible to audit and review.

Expenditures Control, etc

Section 614. **Authorization and Control of Expenditure.** No expenditure of city funds shall be made except for the purposes and in the manner specified in an appropriation by the Council. The City Manager shall establish and direct such systems of internal control and audit as he may find necessary to insure the fulfillment of the purpose of this Section.

Treasury

Section 615. **All Money to Treasury.** All public monies collected by any officer, or employee, of the city shall be paid into the City Treasury, without any deduction on account of any claim for fees, commissions, or any other cause or pretense; and the compensation of any officer, employee, or other person so collecting money, shall be paid by demands upon the Treasury, duly audited as other demands are audited and paid.

Demand

Section 616. **Suits Must be Preceded by Demand.** No suit shall be brought upon any claim for money or damages against the City of Eureka until a demand for the same has been presented as herein provided, and rejected in whole or in part. If rejected in part, suit may be brought to recover the whole. Nor shall suit be brought against said city upon any such claim or demand, if the same shall be in whole approved and audited as provided herein; provided, that nothing herein contained shall be construed so as to deprive the holder of any demand of his right to resort to a writ of mandate, or other proceeding, against the said Council, or any Board of officer of said city,

to compel it, or him, to act upon such demand or claim, or to pay the same when so audited.

Section 617. Independent Audit. The Council shall employ at the beginning of each fiscal year a public accountant who shall, at such time or times as may be specified by the Council and at such other times as he shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle or disburse public funds, and of such other officers, employees or departments as the Council may direct. The Council may direct that such accountant may conduct the independent audit throughout the fiscal year and make reports at intervals required by the Council, but a report for the entire fiscal year shall be filed within 30 days after the closing of the books for said fiscal year, and copies of such reports shall be filed with the Council and with the City Manager, and shall be available for public inspection and review.

Section 618. General Bonded Indebtedness. Whenever the Council determines that the public interest requires the construction, acquisition, completion, initial equipping, remodeling or repair of any improvement, the cost of which, in addition to the other expenditures of the city, will exceed the income and revenue provided for it in any one year, they may by ordinance submit a proposition to incur an indebtedness evidenced by general obligation bonds for such purpose, and proceed therein as provided in the Constitution and general laws of the State.

Section 619. Utility Bonded Indebtedness. Whenever the electorate, by majority vote of those voting on a proposition submitted at any regular or special municipal election, authorize the acquisition of a public utility by the city, the Council is empowered to finance the acquisition of privately owned utility properties and/or the purchase of land pertinent thereto, vehicles, machinery, materials and the cost of all construction and property installations for utility purposes by borrowing. Bonds issued for such purposes shall not be general obligation bonds of the city, and shall be secured by the assets of such utilities only. The Council is also hereby empowered to finance the improvement or extension of any public utility now owned by the city by means of such bonds secured by the assets of the utility. Resolutions authorizing the issuance of such bonds for acquisition or extension of utilities shall require the affirmative vote of a majority of the City Council.

Section 620. Revenue Bonds. Whenever the Council determines that it is in the public interest to acquire, construct, or improve or finance any enterprise when it is feasible to finance exclusively from the revenues of said enterprise, it may by resolution submit a proposition to the voters to incur a bonded indebtedness for such purpose to be secured by revenue bonds subject to all of the terms and procedures provided by State law. Such resolution shall state clearly the revenues which may be obligated, which may be all those permitted by general law.

Off-street
parking

Section 621. Off-Street Vehicular Parking. The Council is hereby expressly authorized to exercise the powers vested by law in any city to provide off-street vehicular parking facilities and to provide for the financing thereof in whole or in part from revenues derived therefrom.

ARTICLE VII

Personnel Administration

Merit
principles

Section 700. Merit Principle. All appointments and promotions in the merit system of the city shall be based on merit as determined by tests and by records of achievement.

Merit system

Section 701. The Merit System. The merit system of the city shall include all offices and employees in the city government except:

- (a) offices required by this Charter to be filled by election or appointment by the Mayor or City Council;
- (b) one assistant and one secretary to the City Manager, one secretary to the Mayor, and one secretary to the Council;
- (c) part-time employees who are regularly employed for less than one-third time throughout the year, or who are employed in seasonal employment for not more than 90 days in any consecutive 12 months; and
- (d) those engaged by contract for special services of a professional, scientific or technical nature, or where the service is essentially non-personal in character.

Provisional
appointments

Section 702. Provisional Appointments. Provisional appointments to positions in the merit system may be made pending the creation of eligible lists, but such provisional appointments may not exceed eight months and may not be renewed or extended.

Personnel
ordinance

Section 703. Personnel Ordinance. The City Council shall by ordinance provide a modern system of personnel administration based on the merit principle required by this Article, consistent with modern accepted practices in public personnel administration, and giving due consideration to the relative interests of the city as an employer and of its employees, within six months of adoption of this charter.

Merit sys-
tem status

Section 704. Merit System Status. All officers and employees of the city subject to the merit system who have held their positions for six months prior to the taking effect of this Article shall automatically acquire status under the merit system without examination; and all other officers and employees subject to the merit system and in office on the taking effect hereof shall be deemed provisional employees.

Removal and
suspension

Section 705 Removal and or Suspension. Any officer or employee of the city subject to merit system who shall be removed or suspended by proper authority having charge of his appointment, shall have a written notice of the cause of his removal or suspension from duty, and he shall have an oppor-

tunity to be heard on the cause of his removal or suspension before a public hearing of the City Council or personnel board.

ARTICLE VIII

Public Libraries

Section 800. Free Library. There shall continue to be ^{Free library} maintained in the City free public libraries and reading rooms as heretofore provided and as may be further directed by the Council.

Section 801. Use of Library. The public library and read- ^{Use of library} ing room created and existing under the provisions hereof, and known as the "Eureka Free Library", is hereby continued in existence and shall be free of access to all residents of said city and the general public, subject to such rules and regulations for the government and management thereof as may from time to time be adopted by the Council, after considering the recommendations of the City Manager and of any advisory body the Council may create.

ARTICLE IX

Miscellaneous Provisions

Section 900. Franchises to Highest Bidder. All grants of ^{Franchises} franchises or public privileges by the Council shall be awarded to the highest bidder in pursuance of the general laws of said State, nor shall any such franchises or privileges have any validity unless the person or persons to whom the same is made shall, within six months thereafter, actually and in good faith, and not colorably, commence the exercise or enjoyment of the same; provided, that where condemnation of property is necessary, condemnation proceedings commenced and diligently prosecuted shall be deemed the exercise of the franchise or privilege. Whenever any franchise or privilege shall have been in disuse, in whole or in part, for the period of one year, there being no legal impediment to the use thereof, it shall be deemed abandoned and forfeited to the extent of such disuse, and said franchise or privilege, or the part thereof, so in disuse, shall no longer be used or enjoyed. When in the exercise of any franchise or privilege, use has been made in any way of any street or alley of the city, such street or alley shall be put in good repair, and all the materials or obstructions which have been placed therein in the exercise of such franchise or privilege shall be removed therefrom at the expense of the person or company who has held such franchise or privilege, whenever the franchise or privilege is abandoned or falls into disuse.

Section 901. Officer Holding Other Office. Any person ^{Dual office holding} except as otherwise in this Charter provided, holding a salaried office under this city, whether by election or appointment, who shall during his term of office hold or retain any office of profit

or emolument under the Government of the United States or of this State, or who shall hold any other office connected with the city, or other cities, or with the County of Humboldt, shall be deemed thereby to have vacated the office held by him under the city government.

Officers, etc.,
interested in
contracts

Section 902. Officers or Employees Interested in Contracts. No member of the Council, and no officer or employee of the City, shall be or become directly or indirectly interested in, or with the performance of, any contract, work, or business, or in the sale of any article, the expense, price, or consideration of which is payable from the City Treasury, or in the purchase or lease of any real estate or property belonging to or taken by the city, or which shall be sold for taxes or assessments or by virtue of legal process at the suit of the city. Any member of the Council, or any officer or employee of this city, violating the provisions of this section, or who shall be directly or indirectly interested in any franchise, right, or privilege granted by the city while he is such officer, member or employee, unless the same shall devolve upon him by law, shall forfeit his office, and be forever disqualified from holding any position in the service of the city; and all contracts made, or rights or franchises granted, in violation of this section shall be absolutely void.

Officer as
surety

Section 903. Officers not to be Surety. No officer of the city shall be or become a surety on any bond given to the city, or to any person for the benefit of the city; nor shall any officer or employee of the city give or promise to give any person any portion of his compensation, or any money, or thing of value, or any position, in consideration of having been or being nominated, appointed, voted for, or elected to any office or employment under the city. No officer of the city shall, while in office, accept any donations or gratuity in money or anything of value, either directly or indirectly from any subordinate employee, or from any candidate or applicant for any position under him, or from any person seeking special favors or considerations. Any person violating the provisions of this Section shall forfeit his office and employment under the city and be forever disqualified from holding any position in the service of the city.

Open books

Section 904. Books Open to Public Inspection. All books and records of every office and department shall be open to the inspection of any citizen at any time during business hours. Copies and extracts from such books and records duly certified shall be given by the officer having the same in custody to any person demanding upon payment of a reasonable fee.

Oaths

Section 905. Official Oaths. Every officer provided for in this Charter shall, before entering upon the duties of his office, take, subscribe, and file with the City Clerk, the following oath:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of

the State of California, and that I will faithfully discharge the duties of the office of _____ to the best of my ability.''

Section 906. Official Bonds. Officers or employees receiving and disbursing or accounting for public funds are to provide official bond. The City Council shall determine by ordinance which other officers and employees are to provide such bond, and shall determine the amount and terms thereof. All bonds shall be executed by a responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on officials bonds shall be paid by the city. There shall be no personal liability upon, or any right to recover against, a superior officer or his bond for any wrongful act or omission of his subordinate, unless such superior officer was a party to or conspire in such wrongful act or omission. Bonds

Section 907. Creation and Abolition of Offices. The City Council may create offices in addition to those provided by this Charter. Whenever in the judgment of the Council no necessity exists for the continuation of any appointed office created or provided by this Charter, except that of City Manager, the Council shall discontinue such office. Offices

Section 908. Employees Residence. All officers and employees of the city must be citizens of the United States, and during their terms of office or employment must establish residence in the city no later than 90 days following the date of their employment; provided, that unless no qualified applicants are available, employees employed by the city shall have maintained residence in the city at least one year prior to appointment. Each such officer or employee shall perform such duties as may be required of them by this Charter or by any law or ordinance, and shall receive only such compensation as may have been duly provided. Residence of employees

Section 909. Officers, Removal from City. If any officer of the city shall remove from the city, or absent himself therefrom for more than thirty days, consecutively, without the permission of the Council, or shall fail to qualify by taking the oath of office and filing his official bond, whenever such official bond is required, within the time required by this Charter, or shall resign, or be convicted of felony or of malfeasance in office, or be adjudged insane, his office shall be and become vacant, and such vacancy shall be filled, as in this Charter provided. Officers leaving city

Section 910. City Property. All books, papers, plats, charts, records, files, and stationery belonging to the city, made, or made use of, by any officer, or employee of the city in the performance of his official duties, shall be deemed and considered as belonging to the city, and shall be delivered to his successor in office, who shall give duplicate receipts in writing therefor, one of which shall be filed with the City Clerk. City property

Section 911. No Discrimination. No officer or employee in any department of the city government shall ever be ap- Discrimination

pointed, or removed for or on account of partisanship, his political opinions, or race, color, or creed.

Improvement
proceedings

Section 912. Improvement Proceedings. All improvements, actions, proceedings, matters, and things not otherwise provided for in this Charter shall be taken, had, and conducted under, and in pursuance of the provisions of the laws of the State of California applicable thereto, in force at the time such improvements, actions, proceedings, matters, and things are taken and had.

Special
meetings

Section 913. Special Meetings. Whenever special meetings are called by the Council, Board of Education, or any other Board of the municipality, notice thereof shall be served on each member personally or by mail, addressed to him, at his place of residence; if by mail, the notice, postpaid, shall be deposited in the Post Office of the city, at least twenty-four hours before the time of meeting. At such special meeting, no subject shall be considered except that specified in the notice.

Judicial
notice

Section 914. Judicial Notice of Ordinance. It shall not be necessary, in any action, civil or criminal, to plead or prove the organization or existence of the corporation of the City of Eureka, nor the passage, existence, or validity of any ordinance, rule, resolution, or other regulation thereof; but the Court before which the proceedings shall be pending shall take judicial notice of this Charter and of such ordinance, rule, resolution, or other regulation, and of the contents thereof, without proof, unless their validity is assailed, when the burden of proof shall be on the party assailing the same; and in all civil actions to which the city, or any officer of the city, is a party, either plaintiff or defendant, the adoption and contents of any ordinance, rule, resolution, or other regulation of the Council may be proven PRIMA FACIE by the introduction of the original entry thereof on the records of the Council, by a copy thereof certified by the City Clerk, to be a full, true and correct copy of such original entry, or by the introduction of a printed copy published or purporting to have been published by authority.

Ordinance
in force

Section 915. Ordinance in Force. All ordinances, rules, resolutions, and other regulations of the City of Eureka, in force at the time of this Charter takes effect, and not inconsistent therewith, shall continue in force until amended or repealed. All officers of the city heretofore existing shall, unless expressly continued in force by this Charter, cease to exist at the time that this Charter takes effect, and shall be supplanted by the officers herein provided for, and the incumbents of the offices so abolished shall surrender to the officers having like powers and duties, as provided by this Charter, all monies, bonds, contracts, books, accounts, records, files, furniture, and property of the offices so abolished. No business pending before any department or officer of the city at the time this Charter takes effect shall be considered as lost, discontinued, or abandoned by reason thereof, but the same may be taken up, con-

tinued, transacted, and completed before the proper department or officer provided for by this Charter.

Section 916. First Election. The Council of the present City of Eureka shall provide for the holdings of the first election of officers under this Charter; shall canvass the vote, declare the result, and approve the bonds of all officers elected at such election. ^{First election}

Section 917. Definitions. Unless the provision or the context otherwise requires, as used in this Charter: ^{Definitions}

- (a) "Shall" is mandatory and "may" is permissive.
- (b) "City" is the City of Eureka and "department", "board", "commission", "agency", "officer", or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Eureka,
- (c) "County" is the County of Humboldt.
- (d) "State" is the State of California.
- (e) "Council" is the City Council of the City of Eureka.
- (f) "Mayor" is the Mayor of the City of Eureka.
- (g) "Member" or "Member of the Council" means any one of the five members of the Council.
- (h) The masculine gender includes feminine and neuter.

Section 918. Headings. Article and section headings appearing in this Charter are for illustration and information and do not in any manner affect the scope, meaning or intent of the provisions of this Charter.

Section 919. Validity and Separability. If any provision of this Charter or the application thereof to any person or circumstance is held invalid the remainder of the Charter and the application of such provisions to other persons or circumstances shall not be affected thereby. ^{Validity and separability}

ARTICLE X

Educational Department

Section 1000. School Department. The government of the School Department of the City shall be vested in a Board of Education to consist of five members who shall receive no compensation. The Qualified electors of the school district shall as a whole elect one member of the Board for each of the five wards of the school district. No person shall be eligible to be elected to the Board of Education who has not resided in the District for one year and in the ward for which he is elected for at least six months preceding his election, and if he fails to continue to be a resident of such ward, his office shall by reason thereof become vacant; provided, however, that in the event ward boundaries are legally changed, this provision shall not apply for balance of the term for which the member was elected. Each member of the Board shall hold office for a period of four years, or until his successor shall be elected or appointed. The term of office of present members shall not be affected by the adoption of this section. ^{School Department}